

National Legislation and Local Practices: Competing Jurisdictions in Land Management in Madagascar¹⁷

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“In 1975 the Ratsiraka government granted 300 hectares of land in the extreme Southern Highlands of Madagascar to migrants in order to start a socialist co-operative. The local Bara, who claim that this is their ancestral land, are to this day entangled in a bitter dispute with the migrants over the land. They steal their cows, destroy their harvests and tear nascent tomb constructions down.”

1. Introduction: background of the paper

The above excerpt from the 1996 fieldwork diary of Sandra Evers is at the core of the issues discussed in this paper. Both official policy of the Malagasy government and national legislation state that rural land which is left unexploited reverts to the state. The government's view is based on the premise that they are the residual owners of land throughout the country. The local Bara have a very different conception of land ownership. Since their ancestors are buried on these lands, they are its only legitimate owners. The foregoing case, and similar research and fieldwork conducted in Madagascar by Evers (cf. 2002, 2005) form the basis of the Madagascar research project and some of its preliminary results which we will be discussing in this article.

During the academic year 2004-05, nine masters students in the Department of Social and Cultural Anthropology of the *Vrije Universiteit Amsterdam (VU)* completed their anthropological fieldwork within the framework of a project carried out under the auspices of the *Vrije Universiteit Amsterdam*, the *Institut de Civilisations/Musée d'Art et d'Archéologie (Université d'Antananarivo)*. The joint fieldwork entailed collaborative research conducted with Malagasy students enrolled at *Université d'Antananarivo* to further investigate the relation between poverty and natural resource management in Madagascar. ICCO, the *Interchurch organisation for development co-operation*, provided the funding for participation of the Malagasy students.

From the project's inception, the intention was not only to analyze research data in academic terms, but also to make it available to development organizations such as ICCO. Thus, the applied use of anthropological research was a leitmotif underlying individual projects and uppermost in the minds of the students during their work. Dutch students were free to select their own sub-theme within the general framework of the project. Although the Dutch students wrote the initial research proposals, their Malagasy counterparts delivered a very important contribution to the success of the fieldwork and the quality of the data. Students conducted three months of fieldwork. Research methodologies included participant observation, extensive interviewing, surveys, rapid rural appraisal and participatory rural appraisal techniques. Of the nine studies, four provide material for this paper:

- Martina van den Haak/Arivelona Rasoatsihaitohaina: Local perspectives on co-management of natural resources in Ambohimahasina, Fianarantsoa;

¹⁷ In addition to the above authors, Wendy de Heer also contributed editing work.

- Inga Lingnau/Miangaly Rabodomalala: Official land property rights in relation to customary practices in Betafo, central highlands;
- Nandl Lokhorst/Hermine Ravelomanantsoa: The influence of religion on land management in the village Morafeno in East-Madagascar;¹⁸
- Carolien Pronk/Miora Rahaingo Rafenohanitrasoa: Historical and contemporary research in land management practices in Antanambao, Mananjary;

The issue of competing jurisdictions in the determination of property rights is relatively simple to state in its broadest terms. National legislation is on a collision course with local customs which have defined such matters and settled land disputes in the past. The collision, to pursue our metaphor, is head-on, and is being played out both at the level of substantive rights and procedurally. Not only the merits of land claims are at issue. So are the appropriate fora to decide the issues, the nature of what constitutes proof, and even who has the right to assert claims and accede to ownership.¹⁹

Fomba gasy is the Malagasy term for customs, and despite its claims to immutability, probably no term in Malagasy is more ill-defined, fluid, and like beauty, entirely viewed through the eyes of the beholder. At the other end, we have the national title system, largely the product of French Civil Law, a positive law system which we can broadly characterize as static, subject to change only through the proper legislative channels, following reading, debate, amendment, consultation. This analytical framework, we grant, is based on a theoretical presumption, but allows us a working hypothesis which we fully intend to adjust and/or discard should our results on the ground disprove it.

The second distinction which may be drawn between the two competing systems of land title is that *fomba gasy* is long-standing in the collective memory, while the centralized land registry is a recent import, imposed from above, and, as our early probes show, regarded with either suspicion or indifference at the local levels. Even prior to the fieldwork which is the basis of this paper, we posited that the mere introduction of the land registry system constitutes an existential threat to the historical arbiters of land rights, if only on the issue of forum. Whatever claims village leaders may have regarding traditional rights, they know little or nothing of the arcane niceties of land title. So, it would appear that at some point in time, the only proper resolution of these matters will be the courts. And that in itself, one would think, could prove fatal to authority at the local level. That was, and remains the question to which we are seeking answers.²⁰

The following article takes cases from recent fieldwork which illustrate some of the issues our research group intends on exploring in-depth over the next five years. Before entering into the ethnographic details, statistics on the Malagasy poverty situation must be considered to understand the extent to which generalized and chronic poverty impacts at the local level. Colonialism and the superimposing of French Civil Law notions strongly conditioned the complex history of land ownership and management in Madagascar. In this article, however, we have opted for a perspective on the current day practices of land management and ownership issues. How do local stakeholders interpret and deal with these

¹⁸ Lokhorst is currently writing her master thesis. The references for the theses of Lingnau, Pronk and Van den Haak are included in the literature list. Names of villages are fictitious to respect the anonymity of the respondents.

¹⁹ It should be stressed that in our studies, we in no way think of local customs and national legislation as mutually exclusive categories. There is considerable overlap between the two jurisdictions. It is for this reason that our research focussed on the dynamic and complex processes used to gain land access and to enforce land claims.

²⁰ Future research will integrate recent legislation on land registration (*Loi n° 2005 - 019 du 17 Octobre 2005 fixant les principes régissant les statuts des terres*). The law however does not seem to resolve the main conflicts between legal concepts of landownership and the local conceptualisations as described in this article.

laws? Our definition of local stakeholders includes farmers, government agents, national and international NGO's. The aims of these groups are clearly divergent. Local populations are stratified and contain a range of interest groups – a small minority of farmers holding official land title, those claiming land by succession according to local customs, land lessees and the landless. Much of the fieldwork discussed here focused on small subsistence farmers who generally gained access to land by way of inheritance. The issue of competing jurisdictions between national legislation and local practices and how farmers address this problem is at the core of the paper. It examines this issue in different geographical locations of Madagascar.

2. Poverty statistics and the local settings

Madagascar ranks among the countries with the lowest GDP per capita in the world (US\$230 in 2004). The International Monetary Fund estimates that 71,3 percent of Madagascar's total population lives under the poverty threshold of one US dollar per day (World Bank Madagascar Data Profile 2004). On the local level, the generalised, pervasive poverty conditions every aspect of day-to-day existence. Small farmers especially are heavily touched. According to UNDP (2000: 31, 32) ninety percent of small farmers live in precarious circumstances and suffer from food shortage and insecurity (cf. MEAP and FAO 2004: 2).

Eighty percent of all Malagasy depend upon agriculture which makes access to fertile land essential (UNDP 2000: 31,32). In South East (Mananjary region) and Central East (rural Toamasina) Madagascar where respectively Pronk (among Antambahoaka) and Lokhorst (among Betsimisaraka) conducted their research, villagers also base their livelihood on agriculture (e.g. rice, corn, manioc, sugar cane and some fruits like bananas and coconuts) complemented by fishing and cattle breeding. People try to generate additional income through weaving and handicraft, but prices fetched for their product are too low to make a real impact on family income. Men often try to obtain wage labour in the vicinity of their villages but job opportunities are rare. Lingnau observed similar survival strategies employed among the Merina and Betsileo living in Betafo in the central highlands. This region is actually considered "rich" by Malagasy standards. By virtue of its extensive water reserves and its volcanic soil this region is one of the most fertile areas in Madagascar. The population density here is very high with about 250 inhabitants/km², in contrast to Madagascar's overall population density of 24 inhabitants/ km² (cf. Velemen & Massot 1995: 60-61). The reality however is that although this region might be slightly better off statistically, people still are not consistently living above subsistence levels for much of the year.

Van den Haak conducted her research in the Southern highlands. This forest region of Ambohimahasina is classified as the poorest of Fianarantsoa province. Villagers have only one rice harvest per year. Besides rice, people cultivate beans, maize, manioc and sweet potatoes. Some villagers also grow peanuts, beans (*voanjobory*) and fruits, including bananas, pineapples and mangos. These products are mainly cultivated on the *tanety*, which are deforested hills. Villagers depend upon contiguous forests for survival where they try to complement their diet with honey, crayfish and hunting small game. The presence of national land management agencies is highly visible in this region because of the government's forest conservation policy. Villagers in the other three research settings are also confronted with recent implementation of land legislation, although to a far lesser extent. At this time, their principal obligation is to satisfy the new mandatory land registration requirement.

3. Current land legislation and local practices

The centralized land registry system is not well organized and in practice is often incapable of confirming land title. Our research showed that in order to obtain a land title, people have to

follow a lengthy and costly procedure.²¹ The registration process includes numerous governmental departments, with inadequate staff to deal with the cases. Furthermore, the institutions lack material and financial resources (Falloux en Talbot 1993: 49, Teyssier 2004: 5-6). Last year, land registry officials were unable to meet the flood of land claims filed with the administration (Unité Technique de Préparation de PNF 2005: 3). The net result of all this is that the state is still unable to grant effective title to land, or even properly register or strike rights from title deeds. This has brought the national registration campaign to a halt. The reality remains that much rural land has yet to be registered (Direction Générale des Domaines et des Services Fonciers 2000: 4-6).

Land ownership of villagers is heavily influenced by kinship networks. Villagers' relations are based on conventions and practices of solidarity (called *fihavanana*), which, despite differences regionally, are generally claimed by villagers to be the central traditional value of Malagasy society (cf. Fauroux 1970: 68, 69). Solidarity between parents and children is also reflected in practices of land succession. By passing land on to their children, parents provide them with their basic life-necessities. At the same time, the inheritance of land by children brings with it a corresponding obligation to pay for the maintenance of the family tomb on the land and the ancestor rituals of the parents. This is certainly consistent with the Malagasy belief that if the ancestors are well cared for they will provide for their descendants (cf. Evers 2002, 2005). Traditionally, people believed that the ancestors prohibited the sale of land. Furthermore, a dominant patrilocal and patrilinear pattern of marriage ensured that land did not come into the hands of somebody outside the family. Our research disclosed that this traditional practice is now rapidly changing in all research sites, particularly since women can now inherit land from their parents. This practise results in increasingly smaller divisions of land. However, there remains a strong preference for patrilocal settlement for newlyweds even while the taboo against the sale of land is disappearing. Globally, it may be said that the hold of local families on land has been weakened.

This process was clearly described by Lingnau and Lokhorst. Lingnau (Betafo region) noted a corresponding erosion of local authority.²² Another case that confirms this point was noted by Pronk in South East Madagascar, where traditionally local *mpanjaka* ("kings") held virtual control over land distribution. The *mpanjaka* relied upon the opinions of the elders (mostly men) that land should benefit the whole community. The division and attribution of land were not documented and legitimacy was derived from local honour agreements. This reliance on oral agreements is problematic when it comes to being recognized under modern legal land registry systems. Furthermore, although the *mpanjaka* still play an important role in social and cultural matters, their political influence has declined in favour of formal political units but also by the creeping sovereignty of national legislation in land matters.

4. Competing jurisdictions and conflicts

Conflicts over land claims were recorded in every research site. These conflicts most commonly appeared in three scenarios: 1) private versus private: ownership disputes over land. They would play out at the local level between families or within families. 2) national versus private: conflicts originating in the local perception of land ownership and rights as compared to the positive law definition of it, as exemplified by the case at the beginning of this paper 3) a combination of elements mentioned under one and two.

²¹ The following website of the Malagasy government offers an overview of the laws on land management and registration: <http://www.foncier.gov.mg/>

²² In the research village of Lokhorst (rural Toamasina), local family leaders still had a primordial voice in land division. This might be due to the fact that all village members were interrelated and formed a strong social block.

We will first take a closer look at category two cases. One statutory example provides us with an insight into the jurisdictional issue. The law states that land property rights are contingent upon ongoing exploitation of land. If rural land having a surface area larger than five hectares is not used for more than 5 years, the property reverts back to the state. This practice would appear to be the Malagasy version of the common law notion of escheat, and civil law of *prescription extinctive*. Without labouring the point, it should be noted that the five year period under the national law makes holding vacant land a highly precarious interest in rural areas. A sceptical observer might see the provision as a rather blatant attempt by the state to expropriate without compensation.

“Art.3.- Lorsqu’il sera établi qu’une propriété rurale d’une superficie supérieure à cinq hectares n’a pas été, depuis cinq ans au jour de la constatation, exploitée personnellement ou à leur frais, soit par le propriétaire, soit par ses ayants droit, cette propriété sera transférée en toute propriété à l’Etat, quelle que soit sa consistance”. (*Ordonnance 74-021 du 20 juin 1974*).

Following the statutory jurisdiction people can apply for title to land, which is not yet legally owned by somebody else, after a ten year period of cultivation of the land in question.

“Art.18. (*Ord. n. 62-047 du 20.09.62*) - En dehors de terrains immatriculés ou cadastrés au nom de particuliers ou appropriés en vertu de titres réguliers de concessions ou selon les règles du droit commun, public ou privé, les occupants de nationalité malgache qui exercent une emprise personnelle réelle, évidente et permanente sur le sol, emprise se traduisant soit par des constructions, soit par une mise en valeur effective, sérieuse et durable, selon les usages du moment et des lieux et la vocation des terrains depuis dix ans au jour de la constatation, pourront obtenir un titre de propriété aux conditions fixées ci-après dans la limite de 30 hectares” (*Loi 60-004 du 15 février 1960*).

Firstly, we reiterate that the positive law notions correspond loosely to notions of squatting rights, escheat or similar legal conventions which have become part of our own systems over time. In practise, often people who have cultivated a piece of land for generations still do not get their rights to land recognized. As Kull states, “[l]egitimacy applies not only to institutions and leaders, but also to rules. In Madagascar, what is legal is often not legitimate; and what is legitimate is often not legal” (Rakotovo Andriamkova et al., 1997 in Kull 2002: 66, cf. Evers 2005).

Most local populations do not see the statutory property rights cited above as legitimate. As mentioned previously, in Madagascar most people acquire land by way of inheritance. There exists a deep-rooted belief in the absolute land rights of the first cultivator of a land and his descendants. This perception is linked to the fact that Malagasy have built their tombs on the land of their ancestors (*tanindrazana*), a sign of family authenticity in the region. Through tombs, Malagasy can have access to their ancestors, who play such an important role in their lives.

Lingnau and Pronk both noted how the coexistence of different jurisdictions leads to a phenomenon called *forum shopping* (Benda-Beckman (1984) in Biezeveld 2002: 21), a practice of seeking out the forum which is likely to produce a result favourable to one’s position. Although the term is a legal one which has been taken out of context, the problem is nevertheless very real. Small-scale, poor peasants generally do not have the savvy to engage in the subtle practice of *forum shopping* and both in Betafo and Mananjary villagers fear that somebody else might lay a claim on their ancestral land (cf. Ramiarantsoa 1995: 84, 129). The villagers for the most part are illiterate. They speak no French and surely do not understand

the complex legal language of a national land title system. The mere imposition of this statutory jurisdiction is reminiscent of earlier times within a colonial context. One less schooled in the niceties of “*sensitization*” might well ask whether Manhattan is not being sold for 24 dollars. In fact, the statutory jurisdiction is only accessible to people who have the necessary knowledge and money as the attached regulation of land registration so eloquently shows.

Thus, the local settings show the complexity of different forms of land access. The overlap between customary practices and the official state system has resulted in legal and institutional pluralism. The lack of valid information and knowledge makes many local people insecure about their land rights. The number of land disputes is on the rise and the competition over land exacerbates social tensions in the community. The growing population and relatively low production make the people struggle for their survival and lead to apprehension of the future. The underlying question is how land access can be secured against the backdrop of this uneasy co-habitation between traditional and the official system of land ownership claims.

During our 2005 research, the data showed that main threat to the customary system is the very existence of the national land registry system. Official laws and regulations enacted by a central authority make it impossible for the local leaders to manage the land with the clout of the traditional authority they had enjoyed hitherto. Land by its nature invites disputes, and disputes demand enforcement of whatever solution is found. But, local leaders now find themselves lacking power to impose solutions in conflict situations.

Finally, there is the interplay of normative frameworks. Local definitions of land ownership, principally based on inheritance systems, are in competition with the national legislations in which cultivators from outside the local communities can also claim ownership over land. However, despite the plans to impose a uniform land title system in Madagascar, villagers interviewed by our researchers still claimed to enjoy a great deal of autonomy. The degree to which this is the case varies. In Betafo and Mananjary, the imminent presence of the state in local land matters has emerged as an issue for villagers. However, in the research village of Lokhorst, villagers still arrange their own land matters and stated they had little to fear from national politics in this regard. Whether this is due to their lack of knowledge on legislative matters, the failure to impose the national system, or their relatively isolated geographical location will be a focus of further research.

In other regions of Madagascar, the state exerts considerable influence. This is particularly so in villages that are in or border the rain forest. Eighty percent of the Malagasy flora and fauna is endemic and there is great international pressure to safeguard the forest for future generations (Mittemeier et al in UNEP 2002: 54). In order to protect these precious sites from slash-and-burn agriculture the government implements co-management approaches in such regions. This evidently gives rise to confrontation as governmental agencies and NGO’s impose another view of what should or should not be done in or to ancestral lands. Van den Haak researched how villagers deal with this new reality.

5. Co-managing ancestral land in Ambohimahasina (south Betsileo)

Although some regions of Madagascar are still forested, forest areas are disappearing at an alarming rate, partly due to growth in the agricultural sector, and partly to traditional land practices. Madagascar’s population growth rate is currently 2.5% per year (World Bank 2003: 1). Land is becoming scarce, and access to arable land difficult. Slash-and-burn agriculture

(*tavy*) to acquire new agricultural land is seen by the government as the most important factor contributing to the decrease of forests²³.

In 1996 the Zafy²⁴ government enacted the *Gestion Locale Sécurisée* (GELOSE) law, based on the co-management approach. Persoon and Van Est (2003: 4) define co-management as “(...) the sharing of power, responsibilities, and benefits with respect to the management of natural resources (including their exploitation and conservation) among government and individual or collective users”. In Madagascar, three parties are typically involved in co-management contracts, namely the state (usually represented by its technical branches such as the Water and Forests Service), the *commune rurale*²⁵ and a local group of resource users who usually act through the auspices of an association²⁶. According to Kull (2004: 248) “[t]he decentralization of resource management involves the transfer of rights and responsibilities to local communities”. GELOSE should thus be a step towards decentralisation of state power.

Van den Haak’s research concentrated on the local level of a GELOSE contract. The inhabitants of the *Commune Rurale* (CR) Ambohimahasina are Betsileo. The CR’s surface covers approximately 540 square kilometres and consists of 13 *fokontany*²⁷. Four *fokontany* signed GELOSE contracts in 2002. One of these *fokontany* is Ambilobe, the research site. According to CCD Namana, a national NGO working in the CR, Ambilobe is the poorest *fokontany* in Ambohimahasina. One reaches Ambilobe in approximately two hours on foot from Ambohimahasina. About 825 inhabitants live in the five hamlets that form Ambilobe. There is no electricity or running water. The natural forest north of Ambilobe is the area covered by the co-management contract.

The lives of Ambilobe’s inhabitants are closely intertwined with their natural environment. Villagers depend on different natural resources for their daily survival, and land to practice agriculture is their main resource. In Ambilobe, all inhabitants cultivate agricultural products on a subsistence basis. Farmers sell some of their produce in the weekly Monday and Thursday market in Ambohimahasina to buy products like petrol, sugar and clothes.

The yields are not enough to provide subsistence. This leads to a period in which people are not able to eat rice three times a day, the so-called *periode de soudure*. The length of this period varies per household, but on average lasts five months, with peaks of up to nine months. Besides substituting non-rice products, people try to adapt other survival strategies. Many men travel to neighbouring communities to search for paid agricultural labour. Breeding animals is another example. Some women weave mats or baskets of straws and *lamba* (traditional clothes), which they sell in the market at much lower prices during the *periode de soudure*, due to money shortages. However, prospects for other income generating activities in the *fokontany* itself are limited.

Thus, people depend largely on agriculture. Nevertheless, the forest is also crucial for the people of Ambilobe as it provides them with timber and non-timber products. The villagers use these products for cooking implements, construction material and for medicinal purposes. They also use the forest to collect honey and crayfish or to hunt birds and other small game. The forest also can provide land through *tavy* for new fields or to leave other plots fallow. However, with the introduction of the GELOSE project in Ambilobe, the local

²³ Deforestation is a complex issue, with a range of underlying causes. It would be too simplistic to say that only *tavy* by the local population is responsible for deforestation. Other social, historical and cultural forces should be taken into account. However, the Malagasy state sees slash-and-burn agriculture as the primary cause of deforestation (for example Jarosz 1993, Kull 2004).

²⁴ President of Madagascar from 1993 – 1996.

²⁵ This is the primary rural political unit.

²⁶ The Malagasy word for the association is *Vondron* ‘*Olona Ifotony* (VOI) or in French *Communauté Locale de Base*.

²⁷ Smallest administrative unit. On average consisting of seven villages and/or hamlets.

people are refraining from practicing *tavy* as the government does not perceive *tavy* as a form of sustainable natural resource management.

The villagers' view

The local population in Ambilobe consider the forest to be their property. It is the place where their ancestors lived and where their family tombs are located. The implementation of the GELOSE project however broadcast the message that the forests actually belong to the state and that they have little alternative but to co-operate with state authorities within the framework of the GELOSE project.

According to the respondents, the forest was not heavily deforested until the arrival of the Second Republic. However, during the Ratsiraka era, lax controls resulted in heavy exploitation of the forest. Freudenberger-Schoonmaker (1998: 8) reports about experiences in the neighbouring *fokontany* Tsara Fara of Ambilobe that “[t]he arrival of the Second Republic (...) eliminated all such restrictions and, in the villagers’ perceptions, even encouraged the unrestricted expansion of hillside agriculture as the message went out that *it’s YOUR land to do what you want with it*”.

The implementation of the GELOSE contract forced the local population to view surrounding forest lands in a different way. Part of the contract describes authorized activities, zones of activity and relevant periods. For example, up to a maximum of four times per month, one may harvest honey in the forest between December and July and one may catch crayfish outside the spawning season from January until August. At the same time, participating in a GELOSE contract means that clearing of primary, secondary or degraded forests through slash-and-burn agriculture is absolutely prohibited. Trespassers are subject to heavy fines. For example, a person clearing forest or felling trees without authorisation has to pay a penalty ranging from 10.000 MGA to 50.000 MGA²⁸. Besides paying the fine, one also has to reseed trees. People who catch crayfish during the off-period are obliged to pay a sum of 200 MGA per crayfish. The former “open access system” has thus been replaced by a strict access and extraction system.

Still, getting involved in a GELOSE contract has benefits for local resource users. First, the contract gives the local contracting party security of land use and resource management as they “(...) are granted exclusive use and management rights over the ‘state domain’” (Antona et al 2002: 3, 6). The state remains the residual legal owner of the resources while the local contracting party receives relative land security as the system also grants local inhabitants the power to exclude people from their territory (Bertrand 1999: 1). The local association decides who has access and extraction rights and at the same time who they exclude from these rights, such as immigrants.

Relative land security and exclusion rights are also the main reasons for the people in Ambilobe to participate in GELOSE. The inhabitants feared that if they would not participate in GELOSE they would lose access to their ancestral land. Even worse, they feared that others, for example from a neighbouring *fokontany*, might acquire management rights over "their" forest land. According to the inhabitants of Ambilobe, they are the people who live closest to the forest and should therefore retain their rights of access. To stress again, the issue of exclusion rights is so important because, next to the production function, their ancestral land is also vital from a socio-cultural perspective. The different functions of the forest land can help explain the willingness of the people of Ambilobe to co-operate in a co-management contract.

€1 = 2405 MGA on June 1, 2005

It remains to see whether GELOSE is tantamount to actual decentralisation of state power or is just an instrument of the state to impose their rules on the local people. At the research site, it appears that there is little talk of a real transfer of management rights at the local level. Until now, local people appear to have acquired a broad range of responsibilities related to access and extraction rules and few substantive property rights. Villagers interviewed also perceive the lack of incentives as a major problem of the GELOSE project. People expect concessions in exchange for cutting back exploitation of the forest. For example, according to some respondents, the state had promised to give a logging permit to cut trees that are mature. Until now, they have received little compensation for their conservation efforts.

In addition, the acts of the local population have to comply with existing laws (Kull 2004: 249). Moreau (2002: 556) confirms that local decisions have to take into account the restrictive forestry laws. For example, the local population can not convert the forested area into a zone for other uses (Antona et al 2002: 9). The contract thus strongly mirrors the national law and can actually not be called a reflection of the ideas and interests of the local people. Hence, participation of the local people on the contents of the contract is rather superficial. This contradicts the initial intentions of co-management in which local parties were to be dealt with as equal partners.

The issue of state power forms the main problem here. The state perceives the local people as beneficiaries who need access to natural resources. They do not approach the local people as actors who should be empowered by receiving the appropriate rights. Now, local people are only charged with the responsibility to supervise compliance with the rules on access and use of natural resources and sanction transgressors. Management rights and decision-making power are rather superficial as conservation notions still dominate the scene. Kull (2004: 249) argues therefore that if GELOSE really wants to empower the local population the legislation should be reformed as well.

Thus, GELOSE is presented as a co-management approach, in which a tripartite contract is created. However, the national laws hamper the possibilities for the state to transfer real management rights to the local population. The fear for *tavy* results in a situation, in which decentralisation of state power does not take place. The respondents perceive co-management as a new tool of the state to achieve sustainable natural resource management. GELOSE thus seems to be another strategy of the state to impose its *antitavy* policy on the local population disguised as co-management. The villagers have no voice in making this policy.

Conclusion

In this paper, we have highlighted land management and ownership issues in Madagascar, focusing on the interplay between local customs, traditional authorities and national legislation. We first looked at land ownership, examining how it is locally defined and acquired observing that it is unfeasible for small subsistence farmers to get their ancestral land legally registered. At the same time, most research settings see an erosion of local authority in land access matters and the parallel problem of a system of land succession creating smaller and smaller agricultural plots. This makes it impossible for people to nourish themselves sufficiently. Even so, the government continues to claim that land registration is the key to poverty reduction in Madagascar. It is, for example, clear from the GELOSE contract in Ambohimahasina that, the contract did nothing to resolve the villagers' poverty problems. It even restricted their possibilities to expand their land base or gain additional food in the forest.

Through an examination of the competing jurisdictions and conflicts between local customs and national legislation in various regions of Madagascar, we hope to track the developments in the field as they occur.

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